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12 **UNITED STATES DISTRICT COURT**

13 **FOR THE DISTRICT OF ARIZONA**

14 Carl A. Wescott,

15 Plaintiff,

16 vs.

17 David Crowe; Mike Lyonette;
18 Thomas P. Madden; Taylor Collins; Jeff
Rau; Darrell Bushnell; Amy Bushnell;
19 Peter Tierney; Kathy Fettke; Susie Yee;
Norman Davies; Claire Davies; Sandra
20 Winfrey; Brian Putze; Colin Ross;
21 Brad Malcolm; Michael Jimenez; Gustavo
Varela; Robert Crowe; Bernadette Brown;
22 Federico Gurdian; Terencio Garcia, Does 1
23 through 50,

24 Defendants.
25
26
27
28

No: CV-20-1383-PHX-SPL

**DECLARATION AND
CERTIFICATION OF H. TROY
ROMERO IN SUPPORT OF
MOTION TO DISMISS AND
MOTION FOR JUDGMENT ON
THE PLEADINGS**

1 I, H. Troy Romero, under penalty of perjury, do declare and certify as follows:

2 1. I am an attorney licensed to practice law by the states of California and
3 Washington, and have been admitted to practice in this Court *pro hac vice*. I am an
4 attorney at the firm of Romero Park P.S., attorneys of record for Defendants David Crowe,
5 Mike Lyonette, Thomas Madden, Jeff Rau, Peter Tierney, Colin Ross, Brad Malcolm, and
6 Michael Jimenez (“Defendants”) in this action. I have personal knowledge of the facts set
7 forth herein, and if called as a witness, I could and would competently testify to the matters
8 stated herein.
9
10

11 2. Plaintiff feigns ignorance as to Defendants’ repeated efforts to meet and
12 confer regarding his complaint, yet he attaches my letter regarding the same and the
13 multiple emails to him to his response; thus, acknowledging the efforts, yet blatantly
14 misrepresenting that no effort was made. On no less than four times I reached out to
15 Plaintiff to try to talk about his complaint and the need to have it dismissed because of the
16 contractual provision that requires the case be filed in California and because it fails to
17 state a claim against all Defendants. For proof of our repeated efforts to meet and confer
18 please review the following:
19
20

21 A. My letter to Plaintiff dated July 6, 2020, a true and correct copy of which is
22 attached hereto as Exhibit A;

23 B. My email to Plaintiff dated July 9, 2020, a true and correct copy of which is
24 attached hereto as Exhibit B;

25 C. My email to Plaintiff dated July 10, 2020, a true and correct copy of which is
26 attached hereto as Exhibit C; and
27

1 D. My email to Plaintiff dated July 11, 2020, a true and correct copy of which is
2 attached hereto as Exhibit D.

3 Exhibit D specifically states that it was the **fourth** time I had reached out to Plaintiff to ask
4 him to dismiss his case or else we would file a motion to dismiss, without him ever
5 responding. Plaintiff could have easily responded to any of my communications but chose
6 not to.
7

8 3. When Defendants filed their Motion to Dismiss and the Motion for Judgment
9 on the Pleadings they did not yet have a copy of this Court's July 28, 2020 Preliminary
10 Order. While Defendants believe they complied with LRCiv 12.1(c), by including a
11 certification within their motion, to make sure that the Court has Defendants' counsel's
12 certification I hereby make the following certification:
13

14 Pursuant to LRCiv 12.1(c), I met and conferred with Plaintiff via letter
15 dated July 6, 2020,¹ which stated the lack of jurisdiction and failure to state
16 a claim. Plaintiff was not responsive to multiple emails which were sent
17 thereafter to try and work out this dispute. The parties have been unable to
18 agree that the pleading is curable by a permissible amendment.
19

20 Further, I certify that even if I had been able to personally talk to Plaintiff about
21 amending his complaint, it would have been futile to do so. I say this because
22 Defendants contend this case must be filed in California, because of the choice of
23 law and jurisdiction provision in the agreement between Plaintiff and two of the
24 Defendants; and that all other Defendants had to be dismissed (or at least had the
25

26
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¹ The Motion contained an inadvertent error referring to a June 29, 2020 letter and, thus, the date of the letter has been corrected here.

1 case moved to California) because none of them live in Arizona and none of them
2 have any contacts with Arizona, especially as it relates to this case. There is no
3 way that Plaintiff ever would have voluntarily agreed to move the case to
4 California because he is on the vexatious litigation list in California (a true and
5 correct excerpt of which is attached hereto as Exhibit E), meaning that Plaintiff
6 filed in Arizona because he was prohibited by law from filing in California, the
7 dictated state with jurisdiction.
8

9
10 I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING
11 IS TRUE AND CORRECT.

12 SIGNED this 19th day of August 2020.

13
14 
15 H. Troy Romero

16 ELECTRONICALLY filed and copy
17 emailed this 19th day of August, 2020, to:

18 Carl A. Wescott
19 Movenpick Apartments & Hotel (#229) – Bur Dubai
20 Opposite American Hospital – 19th Street – Oud Metha
Dubai, UAE (United Arab Emirates) 32733
21 *Plaintiff In Pro Per*
Email: carlwsoj@gmail.com

22 Fabian Zazueta
23 ZAZUETA LAW, PLLC
24 4742 N. 24th Street, Suite 300
Phoenix, AZ 85016
25 Email: fabian@zazuetafirm.com
26 *Attorney for Defendants Sandra Winfrey*
And Brian Putze

27 /s/Kathy Koback